

3CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 03/13/02 Item: 3.a

File Number
CP01-08-075

Application Type
Conditional Use Permit

Council District
4

Planning Area
Alviso

Assessor's Parcel Number(s)
015-39-027

STAFF REPORT

PROJECT DESCRIPTION

Completed by: Caleb Gretton

Location: West side of North First Street approximately 900 feet southerly of Grand Boulevard.

Gross Acreage: 0.09

Net Acreage: 0.09

Net Density: n/a

Existing Zoning: Neighborhood
Commercial (CN)

Existing Use: 45 foot monopole wireless telecommunications facility

Proposed Zoning: No change

Proposed Use: 60 foot monopole wireless telecommunications facility

GENERAL PLAN

Completed by: CG

Land Use/Transportation Diagram Designation
Combined Industrial Commercial

Project Conformance:
☒ Yes ☐ No
☐ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: CG

North: Commercial Golf driving range

Neighborhood Commercial

East: Commercial Golf driving range

Neighborhood Commercial

South: Gaudalupe River and Mobile Home Park

Residential Mobile Home Park

West: Neighborhood Commercial uses

Neighborhood Commercial

ENVIRONMENTAL STATUS

Completed by: CG

☐ Environmental Impact Report found complete
☐ Negative Declaration circulated on
☐ Negative Declaration adopted on

☒ Exempt
☐ Environmental Review Incomplete

FILE HISTORY

Completed by: CG

Annexation Title: San Jose North No. 10

Date: December 19, 1963

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☐ Approval
☒ Approval with Conditions
☐ Denial
☐ Uphold Director's Decision

Date: _____

Approved by: _____
☐ Action
☐ Recommendation

APPLICANT / DEVELOPER

Crown Castle International
Clarence Chavis
6620 Owens Drive
Pleasanton, CA 94588

PUBLIC AGENCY COMMENTS RECEIVEDCompleted by: CG

Department of Public Works

No Comment.

Other Departments and Agencies

No Comment.

GENERAL CORRESPONDENCE

None received

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

The applicant, Crown Castle, is requesting a Conditional Use Permit to allow an increase in the height of an existing monopole from 45 feet to 60 feet for the operation of three (3) Crown Castle wireless telecommunication antennas located at 60 feet on the pole and three (3) Metro PCS wireless telecommunication antennas located at 33 feet on the pole. The Zoning Ordinance requires a Conditional Use Permit for a wireless telecommunications facility in the CN Neighborhood Commercial Zoning District.

The project site is located in Alviso on the west side of North First Street, approximately 900 feet south of Grand Boulevard, within an existing golf driving range facility. The surrounding uses are the golf driving range to the north and east, and the Guadalupe River and a mobile home park to the south. Neighborhood Commercial uses are located to the west. Industrial office R&D uses are located further to the north. Residential uses, a school and a public library are located to the east across North First Street.

In 1996, Planning staff explored the issues of electromagnetic radiation to determine if emissions from the proposed antennas posed a public health hazard. Staff found that the low-frequency, low energy, non-ionizing emission associated with wireless communications antennas were well below the recognized safety standards set by the American National Standards Institute (ANSI). Staff concluded there was no evidence that such transmission would result in adverse health effects to people living or working in the vicinity of the antennas. Further, Staff investigated reports that wireless communication transmission interfered with hearing aids, pace makers, and other electronic devices. Staff determined the reported interference resulted from cordless telephones and not from antennas.

Project Description

The proposed project replaces an existing 45-foot monopole with a 60-foot monopole. Currently the existing monopole consists of three wireless telecommunication antennas located at 45 feet on the pole and three wireless telecommunication antennas located at 33 feet on the pole, with two associated equipment shelters. The antennas located at 45 feet on the existing monopole will be relocated to a height of 60 feet, while the existing antennas located at 33 feet on the monopole will remain at the same height. A solid masonry wall, eight-feet in height, will surround the lease property area and screen the two equipment shelters.

ENVIRONMENTAL REVIEW

The proposed project is exempt from environmental review under Section 15302 of the California Quality Act Guidelines concerning replacement or reconstruction of existing structures and facilities.

GENERAL PLAN CONFORMANCE

The proposed use is consistent with the San José 2020 General Plan Land Use/Transportation Diagram designation of Combined Industrial/Commercial in that wireless communication antennas may be allowed with a Conditional Use Permit in the Neighborhood Commercial zoning districts which conforms to the designation.

ANALYSIS

City Council Policy for Wireless Communications Antennas

The key issue analyzed for the proposed project is consistency with the Zoning Ordinance and with the City Council Land Use Policy for Wireless Communication Facilities. The City of San Jose may allow installation of wireless communications antennas with a Conditional Use Permit to ensure such projects conform to City requirements and are compatible with the surrounding neighborhood.

The proposal is consistent with the Council policy and the Zoning Ordinance in that:

1. The monopole will be located a minimum of 50 feet horizontally from residentially-designated properties.
2. The overall height of the monopole does not exceed 60 feet. The City of San Jose General Plan allows for the height of structures, other than buildings, where the substantial height is intrinsic to the function of the structures, to be 100 feet on sites with non-residential or non-urban designations. The San Jose Zoning Ordinance allows for the increase in the height of telecommunication facilities above the zoning district height limit in the Commercial Zoning District, to a maximum of 60 feet, provided the design meets the “slim pole” design criteria.
3. The proposed height extension of the existing monopole utilizes new “slim pole” design and will not create visual clutter in the area which will minimize visual impacts. The proposal includes a solid masonry wall surrounding the subject property that will adequately screen the two existing equipment shelters.

Adequate landscaping has been required as part of a recently approved permit adjustment that allowed the co-location of the Metro PCS antennas on the subject monopole. Additionally, an existing “wagon wheel” antenna will be removed and replaced with a “slim” antenna as part of this permit. Therefore, the proposed project includes adequate visual mitigation to conform with Council Policy.

4. The project will not eliminate any required parking.

RECOMMENDATION

The Planning staff recommends that the Planning Commission approve the requested Conditional Use Permit and include the following findings and conditions in its Resolution:

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Combined Industrial/Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the Neighborhood Commercial Zoning District.
3. Under the provisions of Section 15302 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review requirements.
4. Commercial uses generally surround the subject site to the north, and east. The subject property is adjacent to Gaudalupe River on the west and south.
5. The project proposes the height extension of an existing wireless telecommunications antennas facility from 45 feet to 60 feet.
6. A solid masonry wall eight feet in height will be provided to screen the associated equipment cabinets.
7. The City Council Land Use Policy for Wireless Communications Facilities is applicable to this application.
8. An existing “wagon wheel” antenna will be removed and replaced with a “slim pole” design antenna.

This Planning Commission concludes and finds, based upon an analysis of the above facts that:

1. The proposed project is consistent with the adopted San José 2020 General Plan Land Use/Transportation Diagram of the City of San José.
2. The proposed project complies with all applicable provisions of the Zoning Ordinance.
3. The proposed project is in compliance with the California Environmental Quality Act.
4. The proposed project complies with the applicable criteria of the City Council Land Use Policy for Wireless Communications Facilities.
5. The proposed project contains adequate setbacks of at least 50 feet horizontally from residential uses.
6. The proposed project increases the overall height of the existing structure to 60 feet, the maximum allowed.
7. The proposed project adequately screens ancillary equipment cabinets.

8. The proposed project will not eliminate required parking.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and
 - b. By other public or private service facilities as are required.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Conformance with Plans.** Construction and development shall conform to approved development plans entitled, "Alviso CA-0387, 4701 North First Street Alviso, Ca 95002," dated February 14, 2002, on file with the Department of City Planning and Building and to the San José Building Code (San José Municipal Code, Title 24).
2. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Construction Hours.** Construction shall be limited to the hours of 7:00 a.m. to 7:00 p.m. Monday through Friday for any on-site or off-site work within 500 feet of any residential unit.
4. **Lighting.** This permit allows no on-site lighting.
5. **Colors and Materials.** All wireless communications antennas colors and materials are to be those specified on the approved plan set.
6. **Outside Storage.** No outside storage is permitted for the project except in areas designated on the approved plan set.
7. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
 - a. *Construction Plans.* This permit file number, CP01-08-075, shall be printed on all construction plans submitted to the Building Division.
 - b. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
 - c. *Archaeology.* Pursuant to Section 7050.5 of the Health and Safety Code, and Section 5097.94 of the Public Resources Code of the State of California in the event of the discovery of human remains during construction, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent area remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission who shall attempt to identify descendants of the deceased native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.
8. **Anti-Graffiti.** The applicant shall remove all graffiti from structures and fence surfaces within 48 hours of defacement.

9. **Tree Removals.** No tree larger than 56 inches in circumference, at a height of 24 inches above the natural grade slope, shall be removed without a Tree Removal Permit issued by the Director of Planning
10. **Hazardous Materials.** Any hazardous materials regulated by Chapter 17.68 of the San Jose Municipal Code on the site must be used and stored in full compliance with the City's Hazardous Material Ordinance and the Hazardous Materials Management Plan for the site approved by the San Jose Fire Prevention Bureau.
11. **Discontinuation Of Use.** Upon discontinuation of the use of the subject antennas, the applicant shall remove all antenna improvements associated with this permit within 30 days.
12. **Construction Conformance.** A project construction conformance review by the Planning Division is required. Planning Division review for project conformance will begin with the initial plan check submittal to the Building Division. Prior to final inspection approval by the Building Department, Developer shall obtain a written confirmation from the Planning Division that the project, as constructed, conforms with all applicable requirements of the subject Permit, including the plan sets.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.44, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.

c: Building Division (2)

Clarence Chavis, Crown Castle, 6620 Owens Drive, Pleasanton, CA. 94588

207-10/CG:yt